

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

#### CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R08-15]

#### PREAMBLE

**1. Sections Affected**

R20-5-602  
R20-5-602.01

**Rulemaking Action**

Amend  
New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 41-1003; 23-107(A)(1); 23-405(4)

Implementing statute: A.R.S. §§ 23-410

**3. The effective date of the rules:**

January 8, 2008

The Commission requests that the rule become effective immediately upon filing with the Secretary of State. An immediate effective date is allowed under A.R.S. § 41-1032(A)(1), which allows a rule to become effective immediately to preserve the public peace, health, or safety. The amendments and additions made in this rule package are designed to protect diving team members for governmental agencies, such as police department dive teams, from injury or death, a purpose squarely within the meaning of A.R.S. § 41-1032(A)(1).

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 3157, September 14, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 3267, September 28, 2007

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Nancy O. Johnson

Address: 800 W. Washington St., Suite 303  
Phoenix, AZ 85007

Telephone: (602) 542-5948

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**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

*Arizona Administrative Code R20-5-602 specifies that each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910. The current rule exempts from the standards those diving operations by or under the control of a governmental agency "performed solely for search, rescue, or related public safety purposes," and thus places diving team members for governmental agencies, such as police department dive teams, at risk. The purpose of the amendment to R20-5-602 is to designate that the exemption to the standards in the current rule does not apply except as specified in the new rule. The effect of the new rulemaking is that Subpart T, Commercial Diving Operation, shall apply to any diving operation by or under the control of a governmental agency.*

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its**

**evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rule is necessary to promote statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact statement:**

Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues.

The Commission will bear minimal to moderate costs for promulgating and enforcing the rules. Costs for promulgating the rules include staff time to write, review, and direct the rules through the rulemaking process.

Governmental agencies that perform diving operations pursuant to this rule may bear minimal costs for training diving members on the standards in Subpart T. This training would be incorporated into the training already provided to the diving members, and so the cost should be negligible.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

None

**11. A summary of the comments made regarding the rule and the agency response to them:**

No comments were received regarding the rule.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of February 14, 2007, located in A.A.C. R20-5-602.

**14. Was this rule previously made as an emergency rule?**

No

**15. The full text of the rules follows:**

## TITLE 20. COMMERCE, BANKING, AND INSURANCE

### CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

#### ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry

R20-5-602.01. Subpart T, Commercial Diving Operations

#### ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

**R20-5-602. The Federal Occupational Safety and Health Standards for General Industry**

Except as provided in R20-5-602.01, Each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of February 14, 2007, incorporated by reference. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona; provided that this rule shall not apply to those conditions and practices which are the subject of in rule R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after February 14, 2007.

**R20-5-602.01. Subpart T, Commercial Diving Operations**

Each employer shall comply with the standards in Subpart T of the Federal Occupational Safety and Health Standards for the General Industry as published in 29 CFR 1910, with amendments as specified in R20-5-602, except that the exemption set forth in 29 CFR 1910.401(a)(2)(ii) shall not apply. Subpart T shall apply to any diving operation performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency.